



Adoptive Parents Committee, Inc./Board of Governors
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U.S. Department of State
CA/OCS/PRI
Adoption Regulations Docket Room SA-29
2201 C Street, NW
Washington, DC 20520

November 27, 2003

Member:

**North American Council
On Adoptable Children.**

Re: Comments on State Department Regulations on Inter-country Adoption
State/AR-01/96

**New York State Citizens
Coalition for Children**

The Adoptive Parents Committee, Inc. is a non profit, volunteer run organization providing information and support to adoptive and pre adoptive parents in the New York/ New Jersey/ Connecticut TriState area since 1955. APC appreciates the continued openness in the drafting process for implementing regulations for the Hague Convention on intercountry Adoption and the IAA. APC is generally in favor of the proposed regulations, but would like to take the opportunity to comment on several issues.

**United Council on
International
Adoption Services**

Hear My Voice

22 CFR PART 96, SUBPART C

**Non-Profit Coordinating
Committee of New York**

96.14 Providing adoption services using supervised providers, exempt providers, public bodies or public authorities.

Section 96.14(b)(2) needs to be clarified. As written, it appears that a homestudy performed by an exempt provider must be approved by an accredited agency, but not specifically the primary agency. This could lead to primary agencies being reluctant to accept homestudies by exempt providers if they may be required to accept homestudies which they have not approved themselves. This, in turn, could lead to a decrease in available homestudy providers by effectively eliminating exempt providers.

It has been suggested that post adoption reports be mandated by regulation in cases where such reports are required by the child's country of origin. While we appreciate the difficulty agencies may have in getting clients to comply with requests for post adoption reports, we feel strongly that a mandate of post adoption reports would be a step backward for adoption. For many years adoption advocates have been struggling to promote adoption as a viable family building option, enjoying the same level of legal and social recognition as biological families. In fact, one of the primary purposes of the Convention is to achieve such recognition of international adoption. To mandate that adoptive families be subjected to a scrutiny that birth families or step families are not subjected to is completely unacceptable.



"Let every child eligible for adoption become available for adoption"

22 CFR PART 96, SUBPART F

96.33 Budget, audit, insurance and risk assessment requirements.

Section 96.33 (h) requires adequate liability insurance for professional negligence as called for in the IAA. This requirement makes sense. There needs to be assurance that adoptive families seeking compensation for negligent or willful malpractice will get satisfaction. As to the level of insurance coverage, APC feels \$1,000,000 is not unreasonable. Families are often faced with providing long term medical care for their children which \$40,000 or \$50,000 would not meet. It is our understanding that \$1,000,000 is the minimal standard for professional liability insurance. Without evidence that this would not be affordably available to most service providers, this requirement should not be changed. Since there has been considerable discussion in the adoption community regarding availability of affordable insurance, APC urges the Department to take necessary steps to ensure that affordable insurance will be available to all agencies and persons seeking accreditation or approval.

96.37 Education and experience requirements for social service personnel.

Section 96.37 (f): While having a masters degree in a human service field is preferred, the more important criteria for homestudy preparers should be prior experience in assisting in homestudy preparation under the supervision of an experienced provider. Not all social work masters programs sufficiently address adoption let alone provide the skills needed for effective homestudy preparation. Those skills are most effectively obtained through prior supervised experience. For homestudy preparers, experience should hold as much, if not more, importance as the degree of education. A bachelors degree with prior experience in homestudy preparation should be considered adequate provided a supervisor with a master degree reviews and approves the homestudy.

96.39 Information disclosure and quality control practices.

Section 96.39(d): It has been suggested that 96.39 (d), which prohibits blanket waivers of liability be eliminated. APC feels strongly that 96.39(d) must remain. By allowing waivers of liability, agencies or persons can be effectively absolved of responsibility for poor or wrongful adoption practice by stating that adoptive parents were aware and accepting of risks involved in intercountry adoption. This goes against the very core of the Convention and the IAA which is to ensure a uniform standard and level of accountability in the provision of international adoption services.

96.45 Using supervised providers in the United States

96.46 Using supervised providers in other Convention countries

96.49 Provision of medical and social information in incoming cases

The Adoptive Parents Committee is strongly in favor of sections 96.45 (c) and 96.46 (c). Any weakening of these sections would not be in keeping with the spirit of the Convention which is to bring accountability and uniformity to the international adoption process. Adoptive parents need to be able to hold service providers accountable for their actions. Having to chase down service providers that the primary agency, not the adoptive parents, contracted with in order to seek compensation for negligent or willful malpractice hinders the adoptive family's ability to hold service providers accountable. The primary service provider must accept legal and financial responsibility for the actions

of others with whom they choose to contract.

APC is strongly in favor of 96.46(b)(2) and 96.49(d)-(j). These sections ensure that complete medical and psycho-social records are made available to adoptive parents. Far too often international adoptions have been placed at risk or have ended in disruption or dissolution because complete records are not made available. It is essential that the primary service provider ensure that, as far as possible, complete records be obtained and made available to adoptive parents.

The Adoptive parents Committee appreciates this opportunity to comment on the proposed regulation for intercountry adoption and looks forward to their completion and the implementation of the Hague Convention.

Respectfully submitted by
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